

Notice of Rulemaking Hearing  
Department of Environment and Conservation  
Division of Radiological Health

There will be a hearing before the Tennessee Department of Environment and Conservation, Division of Radiological Health, to consider the promulgation of amendments pursuant to T.C.A. 68-202-101 *et seq.*, and 68-202-501 *et seq.* The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the 17th Floor Conference Room, Side B, of the L & C Tower located at 401 Church Street, Nashville, Tennessee at 10:00 a.m. (CST), on the 19th day of September, 2002.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division of Radiological Health to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days before the scheduled meeting date to allow time for the Division to determine how it may reasonably provide such aid or service. Contact the Tennessee Department of Environment and Conservation, ADA Coordinator, Isaac Okoreeh-Baah, 401 Church Street, L & C Annex, Seventh Floor; Nashville, TN 37243; (615) 532-0009 or 1-888-867-2757. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of this notice of rulemaking hearing, contact: Barbara A. Davis; Division of Radiological Health, Central Office; L & C Annex, Third Floor; 401 Church Street; Nashville, TN 37243-1532, 615-532-0364.

Substance of Proposed Amendments

Subparagraphs (3)(d) and (e) of Rule 1200-2-10-.24 Registration are amended by deleting (e), adding the words " and (5)" at the end of item (d)1., adding sub items (d)1.(i) and (ii), renumbering item 4. to item 5., adding the words " or (5)" before the word "shall" in item 5., adding the words " for the following fee year" at the end of item 5., adding sub items (d)5.(i) and (ii), and adding item (d)4., so that as amended items (3)(d)1., 4. and 5. and subparagraph (3)(e) shall read:

- (3) (d) 1. All tubes subject to registration are inspected in accordance with subparagraph 1200-2-10-.27(3)(a) and (5).
  - (i) For purposes of the eighteen percent (18%) fee, the first inspection performed on an x-ray tube on or after January 1, 2003, will establish a baseline date for that tube.
    - (I) Each subsequent inspection of a tube shall be performed within 30 days of the appropriate anniversary of the baseline date, according to the schedule set out in 1200-2-10-.27(3)(a).
    - (II) An inspection performed more than 30 days before or after the appropriate baseline date shall establish a new baseline date for that tube.
    - (III) An inspection performed more than 30 days after a baseline date shall not qualify the registrant for the eighteen percent (18%) fee.
    - (IV) An inspection performed more than 30 days before a baseline date may qualify the registrant for the eighteen percent (18%) fee.
  - (ii) Reserved.
- 4. The registrant submits to the Division, at the address given in Rule 1200-2-4-.07:

- (i) Copies of the appropriate State evaluation forms within 60 days after the inspection.
  - (ii) Copies of applicable service reports to document correction of any deficiencies noted within 60 days after the inspection.
  - (iii) For inspections performed on and after January 1, 2002, a signed "X-Ray Inspection Notification and Certification of Compliance" form within 60 days of the inspection.
5. Inspections found by the Division to be unsatisfactory under this subparagraph or under paragraph 1200-2-10-.27(4) or (5) shall not qualify for the 18 percent (18%) fee for the following fee year.
- (i) The registrant shall correct and re-submit the report(s) and documentation of an inspection found to be unsatisfactory within 30 days of the date of notification by the Division. Failure to correct and re-submit the report(s) and documentation of an unsatisfactory inspection will subject the registrant to the Division's normal enforcement actions, penalties and assessments.
  - (ii) The 30-day correction period shall not establish a new baseline or qualify for reduced fee for the following calendar year.

(e) Reserved.

Authority: T.C.A. §68-202-101 et seq. and 4-5-201 et seq.

Item (4)(a)6. and paragraph (5) of Rule 1200-2-10-.27 Inspections are amended by adding the word "above" before the word "sets" in item 6. and by adding the following, so that as amended item (4)(a)6. and paragraph (5) shall read:

(4) (d) 6.	Two (2) notarized letters of reference from persons registered to provide inspections for reduction in fees and meeting any of the above sets of criteria certifying to the individual's capabilities to perform the necessary inspections	Five years of applied health physics experience in a program with radiation safety problems similar to those in the program to be surveyed
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(5) Inspections satisfactory to the Division. The following constitute a proper inspection and must occur:

- (a) The inspection of an x-ray facility subject to registration under "State Regulations for Protection Against Radiation" shall identify the compliance status of the facility and each piece of equipment subject to registration with respect to requirements in Chapters 1200-2-4, 5, 6, 8, 9 and 10.
- (b) The inspection shall address all areas of compliance including but not limited to:
  - 1. Proper registration of all equipment subject to registration;
  - 2. Timely determination of compliance with appropriate facility requirements;
  - 3. Timely determination of compliance with appropriate machine requirements for each piece of equipment subject to registration;

4. The radiation safety program; and
  5. Required records and reports.
- (c) The qualified individual performing the inspection shall record the results of the inspection on evaluation forms provided by the Division, one form for each facility plus an appropriate form, or forms, for each piece of equipment. The evaluation forms shall describe the compliance status of the facility and equipment, as it exists at the time of the inspection. The Division will accept computer-generated forms if these contain the same questions as Division forms contain.
  - (d) The qualified individual shall provide signed and dated evaluation and certification of compliance forms to the registrant promptly.
  - (e) The registrant shall submit evaluation and certification of compliance forms to the Division as set out in 1200-2-10-.24(3)(d).
  - (f) A registrant whose inspection reveals an item of non-compliance shall correct the item promptly following notification by the qualified individual. The registrant shall provide appropriate documentation of the correction to the Division as set out in 1200-2-10-.24(3).
  - (g) If as a result of inadvertent error or excusable neglect a tube(s) is not inspected, the Commissioner or the Commissioner's designee may grant the eighteen percent (18%) fee for all other tubes for the following fee year provided they were timely inspected by a qualified individual.

Authority: T.C.A. §68-202-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.

#### Other Information

Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Barbara A. Davis at the Division of Radiological Health, Central Office, address below, prior to or following the public hearing. However, the Division must receive such written comments in its Central Office by 4:30 p.m. CST, October 4, 2002, in order to assure consideration.

Copies of draft rules are available for review in the Public Access Areas of the following Departmental Environmental Assistance Centers:

Chattanooga Environmental Assistance Center  
State Office Building  
540 McCallie Avenue, Suite 550  
Chattanooga, TN 37402-2013  
(423) 634-5745 / 1-888-891-8332

Memphis Environmental Assistance Center  
Perimeter Park  
2510 Mt Moriah Road, Suite E-645  
Memphis, TN 38115-1520  
(901) 368-7939 / 1-888-891-8332

Knoxville Environmental Assistance Center  
2700 Middlebrook Pike, Suite 220  
Knoxville, TN 37921-5602  
(865) 594-6035 / 1-888-891-8332

Nashville Environmental Assistance Center  
711 R S Gass Boulevard  
Nashville, TN 37243  
(615) 687-7000 / 1-888-891-8332

Copies are also available for review at the Division of Radiological Health, Central Office:

Division of Radiological Health  
L & C Annex, Third Floor

401 Church Street  
Nashville, TN 37243-1532.

The "DRAFT" rules may also be accessed for review at the Department's World Wide Web Site located at <http://www.state.tn.us/environment.htm>

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Department of Environment and Conservation.

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Lawrence E. Nanney, Director  
Division of Radiological Health

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The notice of rulemaking set out herein was properly filed in the Department of State on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Riley C. Darnell  
Secretary of State

By \_\_\_\_\_